IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revn. No. 749 of 1996
Date of Decision: November 29th, 2007

Pritam Singh

...Petitioner

Versus

State of Punjab

…Respondent

CORAM: HON'BLE MR. JUSTICE HARBANS LAL

Present: Mr.Narinder Singh, Advocate
Mr.TS Sangha, Advocate
for the petitioner.

Mr.Antar Singh Brar, Deputy Advocate General, Punjab

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Harbans Lal, J.

This revision has been directed against the judgment/order dated 29th July, 1994 passed by the Court of learned Judicial Magistrate, 1st Class, Abohar, whereby he convicted and sentenced the accused/ petitioner to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.500/- and in its default to further undergo rigorous imprisonment for a period of one month under Section 304-A of the IPC as well as the judgment dated 2nd September, 1996 rendered by the Court of learned Additional Sessions Judge, Ferozepur, whereby he dismissed the appeal.

As set up by the prosecution, on 4th April, 1990 at about 9.00 AM Sham Singh complainant and his sister's son Jaspal Singh were proceeding to Abohar on bicycles from their village Chanan Khera. When they reached half kilometer ahead of village Gobindgarh on the main

metalled road, his brother Sukhdev Singh riding on Hero Majestic bearing registration No. PAD 9046 met them while going to Abohar as usual. Meanwhile, a truck bearing registration No. PUB 1357 being driven by Pritam Singh son of Des Raj accused in a rash and negligent manner and at a high speed came from Malout side and ran over aforementioned Hero Majestic, as well as its rider, who succumbed to the injuries at the spot. The accused/petitioner was identified by Sham Singh as also Jaspal Singh at the scene of accident but he **sped** away the truck. Leaving Jaspal Singh at the spot, Sham Singh started for the Police Station, Sadar Abohar. On the way, he came across the police party headed by Harjit Singh Head Constable, who recorded the statement of Sham Singh and made his endorsement and sent the same to the Police Station, where on its basis formal FIR was recorded. The investigator seized the Hero Majestic, its Registration Certificate, blood stained clothes, the truck and its Registration Certificate and the driving licence vide separate memos and also prepared the rough site plan showing the place of accident. After completion of investigation, the challan was presented in the Court of learned Illaqa Magistrate for trial of the accused.

The accused was charged under Section 304-A of the IPC, to which he did not plead guilty and claimed trial. After recording the evidence, examining the accused under Section 313 Cr.P.C and hearing the learned APP for the State as well as the learned defence counsel, the learned trial Court convicted and sentenced the petitioner/accused as noticed earlier. Feeling aggrieved with the same, he carried an appeal, which was dismissed by the Court of learned Additional Sessions Judge, Ferozepur.

Undaunted by the judgments recorded by the Courts below, the accused/petitioner has come up in revision in this Court.

I have heard the learned counsel for the parties and perused the record with due care and circumspection.

Mr. Narinder Singh, Advocate representing the petitioner, maintained that there is no evidence to that effect that the offending truck was being driven by the petitioner in a rash and negligent manner as Jaspal Singh PW has regretted his inability to tell the speed of the truck. He pointed out that there is no evidence to the effect that the truck at the material time was being driven by the petitioner and thus, his identity is rendered highly doubtful and in these premises, the learned trial Court was not justified in recording the conviction/sentence against the petitioner.

To controvert these submissions, Mr. Antar Singh Brar, Deputy Advocate General, Punjab submitted that Sham Singh PW has solemnly affirmed that he knew the petitioner as well as the truck number, as he used to work as a cleaner on this truck, so, it does not lie in the mouth of Mr. Narinder Singh, Advocate to contend that the identity of the petitioner is not established. He further pressed into service that there is voluminous evidence on record to prove that the petitioner/accused was driving the offending truck in a rash and negligent manner.

I have well considered the rival contentions. Jaspal Singh PW1 has testified that the accused now present in the Court was driving the truck in a negligent manner and at a high speed. Sham Singh PW2 has also stated in identical terms. A glance through their cross-examination would reveal that they were subjected to gruelling cross-examination but they could not

be shattered or shaken, rather they stood like a rock. To put it differently, no material militating against their veracity could be elicited during their cross-examination. So, their statements have to be accepted. Sham Singh PW2, in his chief-examination has stated in categoric terms that I had known Pritam Singh prior to this occurrence. In his cross-examination, he has testified that "I worked as conductor on the truck in question and for that reason I knew the accused". Consequently, the contentions raised by Mr. Narinder Singh, Advocate are repelled.

Mr. Narinder Singh, Advocate realising that he is unable to persuade this Court to take a contrary view on the given evidence already appreciated by the Courts below, made a submission for release of the petitioner on probation. He has submitted that the petitioner is a married man having one son and is not a previous convict, nor involved in any criminal case except the present one and that the wife and children of the deceased have been awarded a sum of Rs.2,88,000/- as compensation by the Motor Accident Claims Tribunal, Ferozepur vide judgment dated 26th August, 1992.

I have considered this submission deeply. As per the postmortem report Ex.PW3/A, the deceased was 28 years of age at the time of his death. His life was snuffed in a jiffy owing to the rash or negligent act of the petitioner. The conscience of his kiths and kins will be shocked, and they will term the trial to be a mockery of justice, if the petitioner is released on probation. Survivors and family members are affected not only by an immediate death or disability, but also life time psychological and physical sufferings. So, this prayer is declined. Of course, having regard to the fact

that this incidence is 17 years old and the petitioner has been facing the agony of trial since a pretty long time, the sentence inflicted under Section 304-A of the IPC is reduced to six months while maintaining the fine imposed as well as its default clause. With this modification this revision is partly allowed.

November 29th , 2007 (Harbans Lal)
gsv Judge

Whether to be referred to the Reporter ? Yes/No